

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

JOHN KIRNER,
7545 Hopkins Road
Mentor, Ohio 44066

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Plaintiff,

CASE NO:
1:07cv1269

JUDGE:

v.

JUDGE POLSTER

CLEVELAND CLINIC,
9500 Euclid Avenue
Cleveland, Ohio 44195

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Defendant.

PLAINTIFF'S COMPLAINT

MAG. JUDGE PERELMAN

JURY DEMAND

ENDORSED HEREIN

This is a Complaint for Damages and Other Relief in which Plaintiff, John Kirner, alleges as follows:

PARTIES

1. Plaintiff John Kirner is and has been a resident of Lake County, Ohio and at all times herein resided at 7545 Hopkins Road, Mentor, Ohio 44066, and was employed by Defendant Cleveland Clinic ("CC") as a plumber/maintenance engineer.

2. Upon information and belief, at all times herein, Defendant CC is and has been an Ohio corporation with its principal place of business located at 8500 Euclid Avenue, Cleveland, Ohio 44195.

JURISDICTION AND VENUE

3. This action arises under the 29 U.S.C. §621, *et. seq.*, the Age Discrimination in Employment Act. The Court has jurisdiction over this action pursuant to 42 U.S.C. §1983 and 42 U.S.C. §1985. Venue is predicated on 28 U.S.C. §1331(b).

EVENTS LEADING TO THE CONTROVERSY

4. On or about January 25, 1999, Plaintiff John Kirner was hired by Defendant Cleveland Clinic in the Department of Facilities Engineering.

5. On or about July, 2006, Plaintiff John Kirner was terminated from CC at the age of 71.

6. Plaintiff has been discharged and/or retaliated against by Defendant CC and has been damaged through loss of salary, benefits, medical benefits, including other damages.

COUNT I

(WRONGFUL TERMINATION IN VIOLATION OF THE ADEA)

7. The allegations contained in paragraphs 1 through 6 are incorporated by reference as if fully restated herein.

8. Defendant CC, both individually and/or through its authorized personnel and authorized agents, violated 29 U.S.C. §621, *et. seq.*, the Age Discrimination in Employment Act in that it shall be an unlawful discriminatory practice pursuant to §§ 621 *et seq.* to discriminate against the Plaintiff based upon his age.

9. The action of Defendant was an unlawful discriminatory practice as described in Section 621 *et seq.* due "arbitrary age discrimination in employment" by the Defendant.

10. As a direct and proximate result of Defendant's discriminatory actions and the failure of Defendant to act in a non-discriminatory manner in discharging the Plaintiff under Section 621, *et. seq.*, in that Defendant's discharge and other discrimination against Plaintiff with respect to hire, engagement, terms or conditions, or any matter directly or indirectly related to his employment based upon his age shall cause and is causing an immediate and irreparable pecuniary injury to the Plaintiff. The Plaintiff has suffered and will continue to suffer, among other things, loss of pecuniary interest, embarrassment and humiliation, and loss of standing in the community, entitling him to an award of

compensatory, consequential and punitive damages and any other appropriate relief, including the expenses and costs of the within matter, including attorney's fees, from the Defendant.

COUNT II

(PUNITIVE DAMAGES)

11. The allegations contained in paragraphs 1 through 10 are incorporated by reference as if fully restated herein.

12. The Defendant's actions were intentional or in bad faith, or were in wanton, reckless indifference to the Plaintiff's rights thus entitling the Plaintiff to punitive damages from the Defendant under all of the above mentioned count.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief as follows:

1. Monetary damages against the Defendant in the sum of in excess of \$25,000.00, individually, jointly and severally, compensatory damages in an amount yet to be determined, punitive damages, prejudgment interest, post-judgment interest, front pay, back pay, plus all costs and expenses of this Complaint, including reasonable attorney's fees, together with any further relief this Court deems just and reasonable under all counts.

JURY DEMAND

Plaintiff hereby demands a jury trial of the within matter.

Respectfully submitted,

LAW OFFICES OF NATALIE F. GRUBB


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